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10/667,419	09/23/2003	Yuval Berenstein	2960/1	1092

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/667,419

Applicant(s)

BERENSTAIN ET AL.

Examiner

William P. Fletcher III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.  
4a) Of the above claim(s) 35-53 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-34 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Receipt is acknowledged of applicant's amendment and response filed 04 May 2005. Claims 1-53 remain pending, of which claims 35-53 are withdrawn from consideration.

### ***Response to Arguments***

2. Applicant's arguments, filed in the above-mentioned response, with respect to the objection to the abstract and the rejection of claim 24 under 35 USC 112, 2<sup>nd</sup> Paragraph, set-forth in the Office action mailed 07 January 2005, have been fully considered and are persuasive. The objection and rejection have been withdrawn.
3. Applicant's arguments, filed in the above-mentioned response, with respect to the art rejections set-forth in the Office action mailed 07 January 2005, have been fully considered but they are not persuasive.

The examiner has carefully reviewed applicant's amendment and response, as well as the summary of the interview conducted 22 February 2005. It is the examiner's understanding that applicant intends the claims to recite that the forming, finishing, and drying of the non-woven fabric occurs on the same processing line with the requisite forming, finishing, and drying stations adjacent or at least proximate one another. As-amended, independent claims 1 and 19 do not require this and the art of record continues to read on these claims. Step (a) requires only that formation of the web of non-woven fabric is formed using an apparatus therefor. This is inherent in a process like that of the cited prior art, in which a commercially available, pre-formed web is finished. The web must, necessarily be formed by a web-forming apparatus. Step (b) requires only that the non-woven web be "passed" from the web-forming apparatus to a

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finishing unit. This too is inherent in the process of the cited prior art, as the pre-formed web must be delivered either from a manufacturer or another part of the facility in order to be coated in the finishing unit. The limitation "said moisture content remaining greater than 10%" does not convey the in-line or proximate nature of the forming and finishing apparatuses, as applicant intends, because it does not recite for how long or during what process steps the moisture content remains at this value. Consequently, applicant's amendment does not overcome the art of record and applicant's arguments to this effect are not persuasive.

***Priority***

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Israel on 13 February 2003. It is noted, however, that applicant has still not filed a certified copy of the IL 154452 application as required by 35 U.S.C. 119(b).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 19, 21, 23-25, 33, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Frischer (US 5,989,380 A).**

With respect to claim 19, Frischer teaches a process for applying a variety of coatings to a non-woven fabric (abstract and 5:1-6:28). Since applicant defines a "finishing agent" as "any additive, coating, or colorant that may be added to non-woven fabric" (spec., 10:20-21), any one of these coatings anticipates applicant's claimed "finishing agent." The process comprises

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forming a continuous web of non-woven fabric and applying the finishing agent thereto as an in-line process (5:1-6:28). It is the examiner's position that, in the process of forming and finishing a non-woven web, forming and finishing apparatuses are inherent and necessary to actually effect the forming and finishing of the web. This claim does not require that the forming apparatus be in the same line as the finishing apparatus. Rather, the claim requires only that the finishing be an in-line process. Consequently, delivery of the commercially available web of Frischer to the finishing apparatus anticipates "passing said non-woven fabric from said apparatus for forming a non-woven fabric to a finishing unit."

With respect to claim 21, the exemplary web-forming process disclosed by Frischer anticipates applicant's claimed wet-laid forming process (5:1-14).

With respect to claim 23 and 24, insofar as Frischer teaches that the web is dried after forming, this reference anticipates removing at least a portion of the production water of the wet-laid web (5:31-37).

With respect to claim 25, insofar as Frischer teaches that a coating may be applied to the web by immersion ("dipping"), this reference anticipates applying the coating in a substantially uninterrupted fashion along the fabric (5:37-42).

With respect to claims 33 and 34, insofar as Frischer teaches that sublimable dyes (which also read on "finishing agents") may be applied to the web in a desired design, this reference anticipates the subject matter of these claims (5:54-6:28).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. **Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frischer (US 5,989,380 A), as applied to claim 19 above, and further in view of Wang et al. (US 5,935,80 A).**

Frischer is relied upon here for the same reasons detailed above.

While this reference does not explicitly state that the non-woven web may be formed by hydroentanglement or dry-laid (air-laid) processes, it does state that the non-woven web may be "produced by known and conventional papermaking techniques" (5:top).

Wang teaches that non-woven webs may conventionally be formed by wet-laid, air-laid (dry-laid), or hydroentanglement processes (1:18-40).

Because Frischer suggests that any conventional non-woven web-making process may be used and because Wang teaches that wet-laid, dry-laid, and hydroentanglement processes are all conventional non-woven web-making processes, it would have been obvious to one of ordinary skill in the art to modify the process of Frischer so as to utilize any one of these processes to

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manufacture the non-woven web. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully producing a non-woven web.

**10. Claims 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frischer (US 5,989,380 A), as applied to claim 19 above, and further in view of Jellinek et al. (US 4,810,751 A).**

Frischer is relied upon here for the same reasons detailed above. Specifically, this reference teaches that the finished non-woven web is suitable for use as a wall covering (i.e., wallpaper) and that the non-woven web is dipped into an acrylic binder to impart rigidity thereto and facilitate further processing thereof (5:38-47).

This reference does not explicitly state that the acrylic binder may be applied in the fashion or forms recited in these claims.

Jellinek teaches that acrylic binder compositions may be applied to a variety of web substrates, including non-wovens, as a paste or foam, utilizing rotary screen printing or engraved rollers (4:27-51).

It would have been obvious to one of ordinary skill in the art to modify the process of Frischer so as to replace the immersion application of the acrylic binder with application as a paste or foam utilizing rotary screen printing or engraved rollers. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully applying the acrylic binder to the non-woven web.

**11. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frischer (US 5,989,380 A).**

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Insofar as it is known to clean decorative wallpaper by washing with a detergent followed by drying and insofar as any coating reads on a finishing agent within the context of the claim (see above), the subject matter of this claim would have been obvious to one of ordinary skill in the art.

**12. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frischer (US 5,989,380 A), as applied to claim 19 above, and further in view of GB 2 292 082 A.**

Frischer is relied upon here for the same reasons detailed above. Again, this reference teaches that the finished non-woven web is suitable for use as a wall covering (5:38-47).

This reference does not explicitly state that application of the finishing agent includes applying a scent producing additive.

The GB reference teaches that a scented coating may be applied to wallpaper to serve as an adhesive (abstract), the scent covering other unpleasant smells associated with application of the wallpaper (1:bottom).

It would have been obvious to one of ordinary skill in the art to modify the process of Frischer so as to add a scented coating to the wallpaper (said coating reading on a "finishing agent," as discussed above). One of ordinary skill in the art would have been motivated to do so by the desire and expectation of yielding a wall covering with a pleasant smell.

**13. Claims 1, 2, 6-9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moroff et al. (US 4,324,832 A) in view of Lavigne (*The Pulp & Paper Dictionary*) and Dudley (US 4,089,765 A).**

Moroff teaches a process for the in-line coating of a formed, non-woven fabric (abstract; 1:10-50; and 3:49-4:61). As noted above, since applicant defines a "finishing agent" as "any



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additive, coating, or colorant that may be added to non-woven fabric" (spec., 10:20-21), any one of these coatings reads on applicant's claimed "finishing agent." Specifically disclosed are the coating apparatus and drying apparatus; the fabric and coating being dried together in the drying apparatus (4:1-2). Although this reference does not explicitly teach a step of forming the non-woven web, it is the examiner's position that such a step is inherent because it is necessary to yield the web that is later processed according to the remainder of Moroff's disclosure. Further, it is the examiner's position that, in the process of forming and finishing a non-woven web, forming and finishing apparatuses are inherent and necessary to actually effect the forming and finishing of the web. Delivery of any sort of web to the finishing apparatus anticipates "passing said non-woven fabric from said apparatus for forming a non-woven fabric to a finishing unit."

This reference does not teach applicant's claimed moisture content.

Lavigne teaches that moisture content is a physical property of a web and that varies "according to atmospheric conditions because of the ability of [the web] to absorb or emit moisture (see attached definition of "moisture content").

Further, Dudley teaches maintaining the moisture content of a non-woven web at a predetermined, wet (i.e., elevated) level to prevent buckling of the web during immersion coating (1:48-51), which is one of the coating processes exemplified by Moroff.

From these references, it is clear that the moisture content of a non-woven web is a physical property of which one of ordinary skill in the art would be acutely aware and which may be adjusted so as to give, for example, desirable web-handling characteristics during later processing. Consequently, moisture content is a result-effective variable. Absent clear and convincing evidence of unexpected results demonstrating the criticality of the claimed moisture

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content, it would have been obvious to one of ordinary skill in the art to modify the process of Moroff so as to optimize this result-effective variable by routine experimentation (see MPEP § 2144.05). It would have been further obvious to adjust the moisture content by any convenient means, including adding water (pre-wetting) or removing water (pre-drying) to/from the web. Further, the teaching of Dudley fairly suggests maintaining the moisture content throughout the entire process, including prior to delivery to the finishing apparatus.

With specific respect to claim 9, as noted above, insofar as Moroff teaches that a coating may be applied to the web by immersion, this reference anticipates applying the coating in a substantially uninterrupted fashion along the fabric (3:55-4:59).

With respect to claim 15, insofar as it is known to clean decorative wallpaper by washing with a detergent followed by drying and insofar as any coating reads on a finishing agent within the context of the claim (see above), the subject matter of this claim would have been obvious to one of ordinary skill in the art.

**14. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moroff et al. (US 4,324,832 A), Lavigne (*Pulp & Paper Dictionary*), and Dudley (US 4,089,765 A), as applied to claim 1 above, and further in view of Jellinek et al. (US 4,810,751 A).**

Moroff, Lavigne, and Dudley are relied upon here for the same reasons detailed above.

None of these references explicitly state that the non-woven web is produced according to the processes recited in these claims.

Wang teaches that non-woven webs may conventionally be formed by wet-laid, air-laid (dry-laid), or hydroentanglement processes (1:18-40).

Because Moroff is silent with respect to how the non-woven web is produced, one of ordinary skill in the art would have looked to the prior art to find suitable non-woven web production processes. Because Wang teaches that wet-laid, dry-laid, and hydroentanglement processes are all conventional non-woven web-making processes, it would have been obvious to one of ordinary skill in the art to modify the process of Moroff, Lavigne, and Dudley so as to utilize any one of these processes to manufacture the non-woven web. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully producing a non-woven web.

**15. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moroff et al. (US 4,324,832 A), Lavigne (*Pulp & Paper Dictionary*), and Dudley (US 4,089,765 A), as applied to claim 1 above, and further in view of Wang et al. (US 5,935,880 A).**

Moroff, Lavigne, and Dudley are relied upon here for the same reasons detailed above. Specifically, Moroff teaches that the finished non-woven web is dipped into an acrylic resin as the finishing agent (4:3-5).

None of these references explicitly states that the acrylic binder may be applied in the fashion or forms recited in these claims.

Jellinek teaches that acrylic binder compositions may be applied to a variety of web substrates, including non-wovens, as a paste or foam, utilizing rotary screen printing or engraved rollers (4:27-51).

It would have been obvious to one of ordinary skill in the art to modify the process of Moroff, Lavigne, and Dudley so as to replace the immersion application of the acrylic binder with application as a paste or foam utilizing rotary screen printing or engraved rollers. One of

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ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully applying the acrylic binder to the non-woven web.

**16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moroff et al. (US 4,324,832 A), Lavigne (*Pulp & Paper Dictionary*), and Dudley (US 4,089,765 A), as applied to claim 1 above, and further in view of GB 2 292 082 A.**

Moroff, Lavigne, and Dudley are relied upon here for the same reasons detailed above. Moroff teaches that the finished non-woven web is suitable for use as decorative paper (1:10-25 and 3:26-36).

None of these references explicitly states that application of the finishing agent includes applying a scent producing additive.

The GB reference teaches that a scented coating may be applied to wallpaper to serve as an adhesive (abstract), the scent covering other unpleasant smells associated with application of the wallpaper (1:bottom).

It would have been obvious to one of ordinary skill in the art to modify the process of Moroff, Lavigne, and Dudley so as to add a scented coating to the wallpaper (said coating reading on a "finishing agent," as discussed above). One of ordinary skill in the art would have been motivated to do so by the desire and expectation of yielding a wall covering with a pleasant smell.

**17. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moroff et al. (US 4,324,832 A), Lavigne (*Pulp & Paper Dictionary*), and Dudley (US 4,089,765 A), as applied to claim 1 above, and further in view of Frischer (US 5,989,380 A).**

Moroff, Lavigne, and Dudley are relied upon here for the same reasons detailed above.

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As noted above, Moroff teaches that the finished non-woven web is suitable for use as decorative paper (1:10-25 and 3:26-36). None of the cited references teach that a finishing agent containing a colorant is applied in a graphic pattern.

As noted above, Frischer teaches that sublimable dyes (which also read on "finishing agents") may be applied to the web in a desired design to produce a decorative paper (5:54-6:28).

It would have been obvious to one of ordinary skill in the art to modify the process of Moroff, Lavigne, and Dudley so as to apply a graphic design as suggested by Frischer. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully yielding the desired decorative paper.

#### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*WPF 7/20/2005*  
William Phillip Fletcher III  
Patent Examiner, USPTO  
Art Unit 1762

  
**TIMOTHY MEEKS**  
**SUPERVISORY PATENT EXAMINER**